

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DELANO JAMES TOLDEN,
Petitioner,

v.

U.S. DISTRICT COURT FOR THE
NORTHERN DISTRICT OF
CALIFORNIA,

Respondent.

Case No. [23-cv-03171-AMO](#) (PR)

ORDER OF DISMISSAL

This suit was reassigned from a magistrate judge to the undersigned in light of a recent Ninth Circuit decision.¹ Petitioner Delano James Tolden, a state prisoner, filed this *pro se* petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. He has also filed motions for leave to proceed *in forma pauperis*. Dkts. 7, 12.

Tolden has a pending habeas action with this Court in Case No. 23-cv-02449-AMO (PR), challenging the same conviction and raising the same claims as in the instant petition. *See* Dkt. 7 in Case No. 23-cv-02449-AMO (PR).

Accordingly, the instant petition is **DISMISSED** as a duplicate petition to Case No. 23-cv-02449-AMO (PR). The Court has reviewed Tolden's claims and issued an order to show cause in Case No. 23-cv-02449-AMO (PR). *See* Dkt. 11 in Case No. 23-cv-02449-AMO (PR).

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¹ *Williams v. King*, 875 F.3d 500, 503 (9th Cir. 2017) (holding that magistrate judge lacked jurisdiction to dismiss case on initial screening because unserved defendants had not consented to proceed before magistrate judge).

1 Tolden's motions for leave to proceed *in forma pauperis* are **GRANTED**. Dkts. 7, 12.
2 The Clerk of the Court shall terminate all pending motions and close the file.

3 **IT IS SO ORDERED.**

4 Dated: Janaury 9, 2024

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7 **ARACELI MARTÍNEZ-OLGUÍN**
8 **United States District Judge**
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